



**STATE OF MISSOURI
Department of Corrections
Board of Probation and Parole**

**PROCEDURES GOVERNING THE GRANTING OF PAROLES AND CONDITIONAL
RELEASES**

*This document reflects current policies and procedures of the Board of Probation and Parole relating to parole consideration and conditional release and replaces the document posted to this web site in **August 2005**. This document is not currently available in print.*

*The **August 2005 printed edition** of the Procedures Governing the Granting of Paroles and Conditional Releases will remain available; however, does not provide the most current references for parole guideline matrices and related appendices.*

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INDEX

Topic	Page Number
Administrative Parole	15
Appeal of Board Action	10
Appeal of Sentence	6, 12
Class X Offender	6, 15, 16
Community Placement Assessment Report	5
Conditional Release	17, 18, 19
Conditional Release Extension	17, 18
Confidentiality	7
Confinement Outside Missouri	8
Consecutive Sentences	6, 11, 17, 18
Continuance	6
Dangerous Felony	13
Decision	8, 9
Detainers	17
Discharge	20
Escape	19
Good Time Credit	15, 16
Hearing Location	5
Hearing Procedure	6
Hearing Purpose	5
Hearing Schedule	5, 6, Appendix A
Institutional Adjustment	15
Medical Parole	16, 17
Mental Competency	15
Minimum Parole Eligibility	11
Minimum Prison Terms	12, 13, 14
Missouri Sex Offender Program	14, 16
Non-Paroleable Offenses	15
Offense Classification	Appendix C
Parole Authority	4
Parole Board	4
Parole Guidelines	7, Appendices D-Q
Parole Restrictions	14
Persistent Offender	12, 14, 15, 16
Pre-Release Review	10
Presumptive Release Date	9
Previous Prison Commitments	6, 12, 13
Prior Offender	6, 12, 13, 14, 16
Prosecuting Attorney Notice	7
Reasons for Board Decision	9, 10
Reconsideration Hearing	10
Release Matrices	Appendices D-Q
Remands	6, 12, 13
Representative	7
Revocations	20
Salient Factor Scale	Appendix B
Special Sentencing Cases	8
Supervision Release Plan	19
Term of Supervision	20
Victim Notice	7
Witness (at CR Extension Hearing)	18

GLOSSARY

Above the Guidelines

Release decisions beyond the time range set out in the guidelines.

Administrative Parole

Release on time credit date as recommended by the institution head. A time credit release date is the conditional release date less the time credit granted.

Below the Guidelines

Release decisions earlier than the time range set out in the guidelines.

Community Corrections Programs

Programs that may be stipulated by the Parole Board to assist released offenders in their successful reintegration into the community, i.e., electronic monitoring program, residential facilities and community release centers.

Community Placement Assessment Report

A report submitted to the Board documenting an offender's case or status for the purpose of establishing conditions and/or a release date.

Conditional Release

Statutorily mandated release (not discretionary parole), with required period of supervision.

Conviction

Any misdemeanor or felony conviction that has a sentence of thirty (30) days or more and any SES probation.

Enhanced Sentencing

An extended term of imprisonment if Court finds an offender to be a persistent or dangerous offender.

Hearing

An appearance before a hearing panel made up of a Parole Board member and Parole Board staff.

Minimum Prison Term

Time required by statute to be served by the offender before eligibility for parole, conditional release or other early release from the Department of Corrections.

Outside the Guidelines

Parole Board decisions either below or above the time ranges as described in the guidelines.

Pre-Release Review

A review of the case by the Board prior to the release date.

Presumptive Release Date

The release date set by the Board.

Prior Incarceration Time

Confinement time in any jail and/or prison that has a sentence of thirty (30) days or more.

Prison Commitment

The receipt by the Department of Corrections of a defendant after sentencing.

Remand

A new prison commitment after an initial commitment to the Department of Corrections.

Salient Factors

Factors that have been determined by research to be predictive of an individual's success or failure on parole.

**TO: OFFENDERS CONFINED IN THE MISSOURI DEPARTMENT OF CORRECTIONS
AND TO ALL OTHER INTERESTED PARTIES.**

The Missouri Board of Probation and Parole has the statutory duty to determine whether a person confined in prison will be paroled or conditionally released. The Board sets the conditions for community supervision of all persons paroled or conditionally released. The Board supervises offenders on probation under the conditions set by the Courts. The Board's exercise of its authority is discretionary and is ultimately governed by the best interest of society as understood by the Board. See Section 217.650 RSMo et seq.

This booklet provides general information regarding the parole and conditional release laws of the State of Missouri and the related internal practices and processes of the Board. The law dictates Board activities. The Board's practices and processes, however, are only guidelines from which the Board can and does deviate whenever a deviation is desirable based upon the specific circumstances of a case or based upon the best interest of society generally. The Board's current revised and revalidated Salient Factor Risk-Scale, the dynamic risk factors incorporated into that scale, and the newly developed release matrices based upon offense classifications are published as appendices. While the Board incorporates risk assessment and release guidelines into its decision making process, it is not bound by those guidelines. The salient factor risk-scale and the release matrices are subject to modification or elimination without prior notice.

The Board's practices may also be modified by changes in its governing statutes.

1. Parole Board

The Board is composed of seven (7) full-time members, with one designated by the Governor as Chair of the Board. The Board has the authority under law to consider for release offenders committed to the Missouri Department of Corrections who are eligible for parole based on their sentence. The Board has also assigned parole officers to all of the institutions to assist offenders and their families in parole matters. All correspondence from offenders sent directly to the Board will be forwarded to the parole officer for evaluation and response.

2. Parole Authority

Missouri law governing parole hearings and the granting of parole is contained in 217.690 RSMo:

When in its opinion there is reasonable probability that an offender of a correctional center can be released without detriment to the community or to himself, the board may in its discretion release or parole such person except as otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.

Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.

The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.

The board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

3. Purpose of Parole Hearings

- A. Allow offenders the opportunity to:
 - 1) Present to the hearing panel their version of the present offense and any prior criminal history;
 - 2) Discuss problems and needs;
 - 3) Present any progress made or plans for rehabilitation;
 - 4) Present reasons why they should be paroled;
 - 5) Present plans for the future;
 - 6) Present and discuss matters that are appropriate for consideration, including challenging information that they perceive to be false.
- B. Provide the hearing panel the opportunity to:
 - 1) Review all available reports and case history material pertinent to the case. These may include social history; medical, psychological and psychiatric reports; circumstances of any prior criminal history including arrests, convictions and incarcerations; past and present patterns of behavior and confidential information.
 - 2) Review reports regarding the offender's institutional adjustment and civility including participation in work, school and treatment programs, restorative justice activities, other cognitive restructuring programs and conduct violation history.
 - 3) Evaluate the offender individually in regard to suitability for parole release, appropriate supervision strategies and special conditions.
- C. Provide the victim, judge, prosecutor or local law enforcement agency the opportunity to present information and testimony to the hearing panel in regard to parole consideration with or without the offender being present.
- D. Provide the offender's representative the opportunity to present information and testimony to the hearing panel in regard to parole consideration.

4. Parole Hearing Location

Parole hearings are usually held where the offender is housed. If an alternative location is necessary, interested parties will be notified in advance of the hearing.

5. Parole Hearing Schedule

Within 90 days of reception, the parole hearing will be scheduled for all offenders eligible for parole under state law. The parole hearing shall be conducted according to the schedule established by the Parole Board (Appendix A). Offenders with less than a 2 year sentence will normally not have a hearing, but instead have a Community Placement Assessment Report (CPAR) submitted. A release date and special conditions will be established from the CPAR.

6. Exceptions to Hearing Schedule

- A. **Waiver of Hearing.** To be eligible to waive a hearing, the offender must be serving a first felony incarceration for a non-violent C or D felony with a sentence structure of 5 years or less (except sex offenders, DWI's, or CR/parole violators). The Waiver of Personal Appearance for Parole Hearing shall be signed by the offender and witnessed by the Officer. The Board reserves the right to conduct a hearing on any case regardless of a waiver request. If the decision rendered is not to grant a date within the guideline range, a hearing will be held.
- B. **Consecutive Sentences.** Offenders who have consecutive sentences will be given a hearing based on the hearing schedule for each sentence. The months for each sentence will then be added together to set the hearing date. For consecutive sentences 1 (one) year, one (1) month will be used in this calculation. The initial parole hearing will not exceed 156 months unless statutes require specific incarceration terms on any or all of the consecutive sentences.
- C. **Prior, Persistent and Class X Offenders.** In the case of an offender sentenced under 558.019 RSMo. (prior, persistent or class X offender), the initial parole hearing shall be scheduled five (5) years prior to the minimum release date, or according to the regular hearing schedule, whichever occurs later.
- D. **Dangerous Felonies and Prior Missouri Commitments/Remands.** Offenders convicted of crimes committed on or after August 28, 1994, defined as dangerous felonies and/or having prior Missouri prison commitments/remands will be scheduled for a parole hearing two (2) years prior to the minimum mandatory prison term, or according to the regular hearing schedule, whichever occurs later.

7. Appeal of Sentence

Any offender who has filed a writ or an appeal of their sentence will be given a parole hearing in the same manner and at the time normally scheduled for that sentence.

Any Court action pending in regard to the case of any offender will not in itself prohibit favorable parole release consideration.

8. Hearing Procedures

- A. **Written Notice.** The offender will receive written notice from the Board of their parole eligibility hearing shortly after admission to the Missouri Department of Corrections. Offenders will receive a second notice of the exact hearing date approximately 45 days in advance of their appearance before the Board.
- B. **Institutional Parole Officer.** Prior to the scheduled parole hearing, the offender will meet with the Institutional Parole Officer, who will submit a report to the Board. The officer is responsible for preparing various other reports during an offender's period of incarceration. The offender should contact the Institutional Parole Officer regarding parole matters.
- C. **Continuance** An offender who has a scheduled parole hearing may request that the parole hearing be rescheduled to a later date. The Board will not accept a request for a continuance of less than three (3) months or more than five (5) years. The Board may refuse to grant the offender's request for a continuance.
- D. **Closing** An offender with a mandatory release date within 5 years may request his case be closed to further parole consideration. If at a later date, an offender changes his intentions, he can request in writing to the parole staff the case be reopened. The Board may refuse to grant the request for closure.

- E. **Appearance.** The offender will appear before the hearing panel.
- F. **Hearing Panel.** The hearing panel shall consist of one member of the Parole Board and two (2) hearing officers appointed by the Board. 217.670 RSMo
- G. **Recording.** The parole hearing will be recorded.
- H. **Refusal to Participate.** An offender may refuse to participate in the pre-hearing interview with the Institutional Parole Officer, as well as the parole hearing. A decision will be rendered based upon available file material.

9. **Confidentiality**

The hearing shall not be open to the general public. The records of all hearings are confidential and considered closed records under 217.670 RSMo.

All documents prepared or obtained in the discharge of official duties by any member or employee of the board of probation and parole shall be privileged and shall not be disclosed directly or indirectly to anyone other than members of the board and other authorized employees of the department pursuant to section 217.075, RSMo. (549.500 RSMo.).

10. **Offender Representative**

Although not necessary, offenders may have a person of their choice at the hearing. The offender's representative may offer a statement on behalf of the offender, ask questions and provide additional information that may be requested by the hearing panel. They may also elect to write or telephone the Board or meet with a Board Member at Central Office. It is advisable that an appointment be made in advance. **Other incarcerated offenders may not be present at the hearing.**

11. **Victim/Judge/Prosecuting Attorney/Law Enforcement**

- A. **Victim Services Unit.** In accordance with RSMo 595.209, the Department of Corrections Victim Services Unit shall notify victims of identified offenses, or at the request of the victim or their representative, of any other offense of the present sentence structure, or their representative, of their right to be present at a parole hearing. The victim requesting to attend cannot be incarcerated and must be a victim of an offense of the present sentence structure.
- B. **Notice.** The Parole Board shall provide notice of a parole hearing to the judge/prosecuting attorney/law enforcement upon their written request.
- C. **Attendance.** The victim and/or person representing the victim and the judge/prosecuting attorney/law enforcement or their representative may attend the hearing and present information to the hearing panel, with or without the offender being present. They may also elect to write or telephone the Board or meet with a Board Member in Central Office. It is advised that an appointment be made in advance.

12. **Parole Guidelines**

To establish a uniform parole policy, promote consistent exercise of discretion and equitable decision-making, without removing individual case consideration, the Board has adopted guidelines for parole release consideration, using a salient factor scale and time to be served matrices (see Appendices B-Q).

These guidelines indicate the customary range of time to be served before release for various combinations of offender characteristics and sentence length. **Mitigating or aggravating**

circumstances may warrant decisions outside the guidelines. The Board reserves the right to consider total offense behavior as an aggravating factor in decisions reached above the guidelines. The offender may impact the dynamic variables of the salient factor scale through institutional adjustment, program achievement and treatment completion. If a decision above the guidelines is reached, the reasons shall be stated in the notice to the offender. The guidelines are only a tool to assist the Board in meeting the goals previously stated. Nothing in guideline policy can be read to mandate release.

- A. **Scoring.** The Institutional Parole Officer is responsible for ensuring the salient factor score is accurately calculated and reviewed with the offender. The salient factor matrix is used to establish guidelines for time to be served. Parole guidelines may apply to new concurrent sentences received while on parole or conditional release.
- B. **Multiple Offenses.** If an offense can be classified under more than one class, or multiple separate offenses are involved, the most serious applicable class shall be used. Multiple separate offenses may be considered an aggravating factor in decisions reached above the guidelines.
- C. **Exceptions.** The Board shall consider offenders with certain sentence structures on a case-by-case basis. Guidelines may not apply to offenders under the following circumstances:
 - 1) More than thirty (30) years or under two (2) years.
 - 2) Sentences received for crimes that occurred on inmate status.
 - 3) Any new consecutive sentence received as the result of a parole violation.
 - 4) Returned as a technical parole violator.

13. **Special Sentencing Cases**

Offenders may be sentenced by the Court or referred by the Department of Corrections to specific treatment or shock incarceration programs. Offenders designated to participate in treatment are not routinely scheduled for a personal hearing. Upon completion of the program a report outlining the offender's eligibility for release will be prepared and forwarded to the Court and/or Board for a decision.

When probation is denied by the Court for offenders who have been referred to treatment or shock incarceration programming, a parole hearing date will be set according to the hearing schedule or as soon thereafter as possible.

14. **Offenders Confined Outside the Missouri Department of Corrections**

- A. **Rules and Regulations.** The same rules and regulations governing the granting of paroles and conditional releases apply to offenders serving a Missouri sentence in another state or federal jurisdiction.
- B. **Waiver.** Offenders may waive their right to a personal hearing. Upon receipt of a report from the appropriate authorities in the other state or jurisdiction the Missouri Board will review the case without the offender present.
- C. **Temporary Absence.** If offenders are temporarily unavailable for their scheduled hearing due to a court appearance or other authorized absence, the hearing will be continued until their return to the Missouri Department of Corrections.

15. **Board Decisions**

- A. **Notice.** After the hearing, the Parole Board will reach a decision as soon as possible. The offender will receive a written notice of the Board's action as soon as the notice can be prepared and delivered. It is the offender's responsibility to communicate the decision to family and friends. Information may only be provided to family or friends **after** the decision has been received by the offender.
- B. **Additional Information.** Following the hearing, the Board may request additional reports before making a final decision. These may include field and institutional investigations, psychological and psychiatric evaluations. The Board may request the offender's authorization to obtain any medical, psychological and/or psychiatric evaluations that may have been made in the past.
- C. **Decision.** The Board may:
 - 1. Set a presumptive parole date.
 - 2. Deny parole and set a conditional release date or maximum release date,
 - 3. Deny parole and schedule a future hearing date.

Offenders with a minimum mandatory prison term are not eligible for release to the community prior to completion of the minimum mandatory prison term.

The setting of a presumptive release date does not automatically entitle the offender to be released on that date. Release shall be dependent upon a finding by the Board that the offender has a continued record of good conduct, has satisfied the requirements of any mandated programs, and has an acceptable release plan. Changes in sentence time may result in a change in release date.

All release dates are set on the assumption that the information from the offender has not been fraudulently given or withheld from the Board. If evidence comes to the attention of the Board that an offender has concealed or misrepresented information deemed significant, or if information which has not previously been considered comes to the attention of the Board, the case may be reopened to determine whether such release should be rescinded.

- D. **Special Conditions.** The Board may order any special condition believed to be beneficial to the offender.
- E. **Release Strategies.** The Board may order release to a community corrections program or other release strategy

16. **Statement of Reasons for Decision**

The reasons for decision above the guidelines, for extension of the presumptive release date, denial of good time credit release and for offenders for whom a presumptive release date has not been set may include, but are not limited to, the following reasons, with further specification of Board policy where appropriate:

- A. Release at this time would depreciate the seriousness of the offense committed or promote disrespect for the law.
 - 1) Circumstances surrounding the offense(s).
 - 2) Relatively high degree of sophistication shown in crime.
 - 3) Weapons or excessive force/violence involved.
 - 4) Community opposition.

- 5) Multiple or consecutive sentences.
 - 6) Other.
- B. There does not appear to be a reasonable probability at this time that the offender would live and remain at liberty without violating the law.
- 1) History of criminal involvement.
 - 2) Poor field supervision history.
 - 3) Abuse of drugs or alcohol.
 - 4) Need for institutional substance abuse or MOSOP program completion.
 - 5) Refusal or Failure to complete Court-ordered or Board-stipulated institutional program.
 - 6) Dangerous or persistent offender.
 - 7) Short interval between offenses.
 - 8) Poor institutional adjustment
 - 9) Other.

17. Appeal of Board Action

In accordance with statute an offender may only appeal a hearing panel decision to deny parole or revoke parole or conditional release (217.690 RSMo). No other Board actions are subject to appeal. The Notice of Board Action will reflect whether the decision is subject to appeal. It is expected that the offender will consult with the Institutional Parole Officer on all areas of concern regardless of whether or not they are appealable. Most questions can be satisfactorily resolved at this level.

Any appeal to the Board must be in writing on forms provided by the Institutional Parole Officer. It must be filed within thirty (30) days after the decision has been received. An offender is presumed to have received the decision within ten (10) days of the date of the notice of the decision to the offender. The appeal shall be considered by the Board within thirty (30) days of receipt of the appeal or as soon thereafter as possible and the offender will be advised of the Board's decision as soon as the notice can be prepared and delivered. If the appeal is not filed within thirty (30) days after the offender receives the original decision, this decision shall stand as final.

18. Reconsideration Hearing

The purpose of a reconsideration hearing shall be to consider the offender's case and any significant developments or changes in the offender's status that may have occurred subsequent to the previous hearing.

Reconsideration hearings shall be conducted every one (1) to five (5) years until a presumptive release date has been established.

19. Pre-Release Review

The purpose of a pre-release review is to determine whether the conditions of a presumptive release date have been satisfied and to review any additional information that may be made available to the Board.

Following review, the Board may:

- A. Approve the release date.
- B. Adjust the release date based on program participation.
- C. Modify special conditions or release strategies.
- D. When the Board believes it is not appropriate for the offender to be released on the presumptive release date, it may:
 - 1) Cancel the release date and reschedule for release.
 - 2) Cancel the release date and schedule for a reconsideration hearing.

20. Minimum Parole Eligibility

Minimum parole eligibility is the earliest point at which an offender is eligible for parole release consideration. Minimum eligibility requirements may be established by Board policy in the absence of statutory minimums. Minimum parole eligibility in no way requires a parole release. It is simply the point at which an offender first becomes eligible for parole release.

In making release decisions, the Board considers many factors including, but not limited to, offense behavior, victim impact, criminal history, social history, institutional adjustment, including program participation; release plans and community attitude.

- A. Offenders convicted of **Drug C & D, Non-Violent C & D and DWI C & D offenses** (Appendices D, E, H, I, L) may not be eligible for parole until fifteen percent (15%) of the maximum sentence has been served, except where statute would require more time to be served.
- B. Offenders convicted of **Sexual or Child Abuse and Violent offenses, (all classes of offenses)** (Appendices N, O, P, Q) may not be eligible for parole until thirty-three (33%) of the maximum sentence has been served; except where statute would require more time to be served.
- C. Offenders convicted of **Drug A & B, Non-Violent A & B and DWI B offenses** (Appendices F, G, J, K, M) may not be eligible for parole until twenty-five percent (25%) of the maximum sentence has been served, except where statute requires more time to be served.
- D. Offenders serving **life or multiple life sentences** and for particular term consecutive sentences of **forty-five (45) years or more** may not be eligible for parole until a minimum of fifteen (15) years has been served, except where statute requires more time to be served.
- E. For offenders serving **multiple life sentences or other sentences concurrent or consecutive to a life sentence** the Board may, due to the nature and length of the sentence, determine not to set a minimum eligibility date.

21. Minimum Prison Terms Under 558.019 RSMo

- A. For offenses that occurred on or after January 1, 1987, and before August 28, 1994, the minimum prison terms in section 558.019 may be applied only to a sentence for class A or B felonies when the offender was found by the Court to be a prior, persistent, or class X offender. The following minimum prison terms apply. The minimum term must be served during the specific sentence in which it applies.
- 1) A **prior offender**, one who has been previously convicted of one felony, must serve 40% of the sentence.
 - 2) A **persistent offender**, one who has been previously convicted of two (2) felonies committed at different times, must serve 60% of the sentence.
 - 3) A **class X offender**, one who has been previously convicted of three (3) felonies committed at different times, must serve 80% of the sentence.
 - 4) A parole eligible sentence of **life** for the purpose of calculation should be fifty (50) years.
 - 5) Any sentence alone or with other consecutive sentences that total **over seventy-five (75) years** for offenses that occurred at or near the same time shall be calculated to be seventy-five (75) years.
- B. **For crimes that occurred between August 28, 1994, and April 26, 1998**, the following minimum prison terms apply. The minimum term must be served during the specific sentence in which it applies.
- 1) An offender with **one prior remand**, which is the same as two previous incarcerations in the Missouri Department of Corrections, must serve 40% of the sentence.
 - 2) An offender with **two prior remands**, which is the same as three previous incarcerations in the Missouri Department of Corrections, must serve 50% of the sentence (or until the age of 70 with at least 40% of the sentence served).
 - 3) An offender with **three prior remands**, which is the same as four previous incarcerations in the Missouri Department of Corrections, must serve 80% of the sentence (or until the age of 70 with at least 40% of the sentence served).
- C. **For crimes that occurred on or after April 27, 1998**, the following minimum prison terms apply. The minimum term must be served during the specific sentence in which it applies.
- 1) An offender with **one previous prison commitment** in the Missouri Department of Corrections must serve 40% of the sentence.
 - 2) An offender with **two previous prison commitments** in the Missouri Department of Corrections must serve 50% of the sentence (or until the age of 70 with at least 40% of the sentence served).
 - 3) An offender with **three or more previous prison commitments** in the Missouri Department of Corrections must serve 80% of the sentence (or until the age of 70 with at least 40% of the sentence served).
- D. In reference to sections B and C above, the following is applicable for **crimes committed after August 28, 1994**:

- 1) A parole eligible sentence of **life** for the purpose of calculation shall be thirty (30) years.
- 2) Any sentence alone or with other consecutive sentences that **exceed seventy-five (75) years** for offenses that **occurred at or near the same time** shall be calculated to be seventy-five (75) years.
- 3) Any sentence alone or with other consecutive sentences that **total over seventy-five (75) years**, including life sentences, for offenses that **did not occur at or near the same time** will not be eligible for parole until the mandatory portion of the specific sentence to which the minimum requirement applies is served.
- 4) If the **minimum prison term requires the offender to serve beyond a normal conditional release date**, the offender does not have a conditional release date. Any release after the minimum prison term requires a parole release.

E. **Dangerous Felony** Any person convicted of a crime defined in section 556.061 RSMo and is committed to the Department of Corrections shall be required to serve at least 85% of the sentence imposed by the Court (or until the age of 70 with at least 40% of the sentence served).

- 1) **Crimes committed on or after August 28, 1994:**
 Forcible Rape
 Forcible Sodomy
 Robbery First Degree
 Murder Second Degree
 Kidnapping
 Arson First Degree
 Assault First Degree
- 2) **Additional Crimes committed on or after August 28, 2002**
 Attempted Forcible Rape (if physical injury results)
 Attempted Forcible Sodomy (if physical injury results)
- 3) **Additional Crimes committed on or after June 27, 2003**
 Assault of a Law Enforcement Officer First Degree
 Domestic Assault First Degree
 Elder Abuse First Degree
 Statutory Rape First Degree (victim less than 12 years of age at the time of offense)
 Statutory Sodomy First Degree (victim less than 12 years of age at the time of offense)
 Abuse of a Child (if the offense results in the death of the child)

F. The following is applicable for crimes occurring on or after June 27, 2003:

For the purpose of determining a minimum prison term pursuant to the provisions of section 558.019, RSMo. an offender's first incarceration in a Missouri Department of Corrections program *prior to release on probation* pursuant to the following statutes shall not be considered a previous prison commitment:

217.362 - Long Term Drug Treatment Program
 217.785 – Regimented Discipline Program
 559.115 – 120-Day Incarceration Program

G. The following is applicable for crimes occurring on or after August 28, 2003 with a 40% commitment count:

An offender with one previous prison commitment in the Missouri Department of Corrections for a felony offense must serve 40% of his or her sentence or until the offender attains (70) seventy years of age and has served at least 30% of the sentence imposed.

22. Additional Restrictions to Parole

- A. **Armed Criminal Action.** When an offender has been convicted of a felony where a dangerous or deadly weapon is used and is guilty under Section 571.015 RSMo. of the crime of armed criminal action, the minimum parole eligibility is as follows, unless guidelines would require more time to be served:
- 1) For the **first conviction of armed criminal action**, an offender must serve a minimum of three (3) calendar years.
 - 2) For the **second conviction of armed criminal action** committed at different times, an offender must serve a minimum of five (5) calendar years.
 - 3) For the **third conviction of armed criminal action** committed at different times, an offender must serve a minimum of ten (10) calendar years.
- B. **Pharmacy Robbery in the First Degree.** An offender convicted under 569.025 RSMo. (3-17-86) shall not be eligible for parole until a minimum of ten (10) years imprisonment has been served.
- C. **Pharmacy Robbery in the Second Degree.** An offender convicted under 569.035 RSMo. (3-17-86) shall not be eligible for parole until a minimum of five (5) years imprisonment has been served.
- D. **Capital Murder.** An offender convicted under 565.008 RSMo. (the Capital Murder Statute effective between 1-1-79 through 9-30-84) shall not be eligible for parole until a minimum of fifty (50) years imprisonment has been served.
- E. **Sex Offenses.** Offenders imprisoned for sex offenses shall participate in and complete the prescribed treatment program developed by the Department of Corrections prior to being eligible for parole. 589.040 RSMo. (8-13-80)
- F. **Unlawful Use of a Weapon.** In addition to regularly authorized penalties for Unlawful Use of a Weapon, **effective August 28, 1995**, statute provides the following penalties:
- 1) If an individual discharges or shoots a firearm at or from a motor vehicle while within any city, town, or village, and discharges or shoots a firearm at any person or any other motor vehicle, or at a building or habitable structure, it is a class B felony (unless lawfully acting in self-defense). If this action results in injury or death of another person, it is a class A felony and shall be sentenced to the authorized disposition for such.
 - 2) The first violation of the above statute carries the maximum sentence authorized for a class B felony. If the person is a prior offender as defined in 558.016 RSMo, this term shall be without parole, probation, or conditional release for 10 years. Persons defined as persistent offenders in 558.016 RSMo and violate the above statute are not eligible for parole, probation, or conditional release. 571.030 RSMo.
- G. **Prior or Persistent Domestic Violence Offender.** An offender designated by the court as a prior or persistent domestic violence offender must serve a minimum of six (6) months imprisonment before being eligible for probation or parole. 565.063 RSMo.

- H. **High School Diploma/GED.** Effective January 1, 2001, the Board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the offender has made an honest, good-faith effort to obtain a high school diploma or its equivalent. 217.690 RSMo

23. Non-Paroleable Offenses

- A. **Murder First Degree.** An offender convicted under 565.020 RSMo. (10-1-84) shall not be eligible for parole.
- B. **Persistent Sexual Offender.** An offender convicted under 558.018 RSMo. (10-1-80) shall not be eligible for parole.
- C. **Tampering with a Victim / Witness.** An offender convicted under 575.270 RSMo. (8-28-83) shall not be eligible for parole.
- D. **Drug Offenses.** An offender convicted under 195.211, 195.212, 195.213, 195.214, 195.218, 195.223, 195.222, 195.291, 195.292, 195.295, or, 195.296 RSMo. may not be eligible for parole.
- E. **Class X Offender.** An offender convicted under 558.019 RSMo. (prior to August 28, 1994) and sentenced to twenty-five (25) years or less is not eligible for parole.
- F. Offenders who receive sentences consecutive to a paroleable life sentence when the consecutive sentences are for crimes occurring on after August 28, 1994, may not be eligible for parole. Parole eligibility will be determined on a case by case basis.

24. Institutional Adjustment

The Board contributes to the maintenance of order in correctional facilities by denying or deferring release to offenders who have failed to comply with institutional rules. The Board takes into consideration the number and seriousness of the conduct violations.

Offenders who receive conduct violations may have their presumptive release date cancelled and a new date set; a reconsideration hearing scheduled; and/or their conditional release date extended.

The Board considers positive participation by the offender in institution programs, restorative justice projects and others areas of institution life.

25. Mental Competency

Whenever reasonable doubt exists as to the mental competency of any offender and/or the Board believes the offender represents a danger to himself/herself or to others, the Board may defer a release decision. In determining mental competency, the Board may consider oral or written psychiatric or psychological reports.

26. Administrative Parole/Good Time Credit Release

Pursuant to section 558.041 RSMo, the Board may issue an administrative parole to offenders incarcerated under provisions of the New Criminal Code (crimes committed on or after January 1, 1979) who have been recommended for time credit release by the institution head. The time credit release date is the conditional release date less the time credit granted.

- A. **Factors Considered.** As with parole consideration, the Board considers many factors including, but not limited to, offense behavior, victim impact, criminal history, social history, institutional adjustment including program participation, release plans and community attitude.

B. Ineligible Cases. Offenders are not eligible for time credit if:

- 1) Serving a sentence for a non-paroleable offense as listed.
- 2) Sentenced as a persistent or dangerous offender under 558.016 RSMo.
- 3) The conditional release date has been extended to the maximum release date because of disciplinary action or failure to complete the Missouri Sexual Offender Program.
- 4) The conviction is based on a crime committed before January 1, 1979.
- 5) The offense occurred on or after August 28, 1994 and;
 - a) the offense is a dangerous felony requiring a minimum of 85% of the sentence, or;
 - b) 80% of the sentence must be served because of prior prison commitments pursuant to 558.019 RSMo.
- 7) Failure to satisfactorily complete Board mandated programs.
- 8) Offenders who have been returned due to a parole or conditional release violation on that sentence.
- 9) Offenders serving life sentences.

C. Offenders convicted for the crime of **Armed Criminal Action**, 571.015 RSMo, **Pharmacy Robbery I/II**, 569.025 RSMo and 569.035 RSMo. or sentenced as a prior or persistent offender under 558.019 RSMo. are not eligible for time credit until the minimum term required by statute has been served.

D. Offenders serving a sentence for **sex offenses** as described in 589.015 RSMo shall participate in and complete the prescribed treatment program prior to being eligible for administrative parole. 589.040 RSMo.

27. Medical Parole

A. **Eligibility.** To be eligible for medical parole consideration, an offender must be:

- 1) afflicted with a disease that is terminal (death anticipated within six (6) months) or;
- 2) advanced in age to the extent that he is in need of long-term nursing care or;
- 3) greatly endangered by or his life shortened by confinement. 217.250 RSMo.

B. **Process.** All requests for medical parole will be forwarded to the institution's Primary Care Physician. The Primary Care Physician will determine if the offender meets the medical parole criteria and will submit a recommendation to the Parole Board. The Board will then review the case without a personal hearing, make a decision, and forward the decision in writing to the offender.

C. **Supervision.** The offender will, as far as possible and practicable, be required to comply with all conditions of parole as set forth on the parole release document. An offender who has been granted a medical parole will be under the same kind and degree of field

supervision as any other paroled offender unless the Board modifies supervision. All parolees are financially responsible for their medical and other needs.

- D. An offender may be granted a medical parole for the specific purpose of special care or treatment. Upon recovery, or at any time, the offender may be subject to return to the Missouri Department of Corrections or any other disposition as the Board of Probation and Parole may deem appropriate.

28. Release to Detainers

The Parole Board may consider release to a detainer in any jurisdiction inside or outside the State of Missouri. Every effort should be made by the offender to satisfy any untried detainer or have it withdrawn. Official notice of any action taken on such detainers must be forwarded to the Division of Adult Institutions.

The Board will consider the granting of a dual or concurrent supervision with another paroling authority.

29. Conditional Release

- A. **Definition.** *Conditional release means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board deems reasonably necessary to assist the releasee in avoiding further violation of the law. 558.011 RSMo.*
- B. **Conditional Release Term.** Conditional release terms are effective for crimes committed on or after January 1, 1979. The conditional release term will be:
 - 1) The last one-third of the sentence for those nine (9) years or less.
 - 2) The last three (3) years of sentences of nine (9) to fifteen (15) years.
 - 3) The last five (5) years of sentences more than fifteen (15) years. 558.011 RSMo.
- C. **Exceptions.** There is no conditional release term on the following:
 - 1) Life sentence.
 - 2) For offenders with a minimum mandatory prison term of 80% or more under 558.019 RSMo for crimes that were committed on or after August 28, 1994.
 - 3) For offenders sentenced as persistent sexual offenders under 558.018 RSMo. for an offense that occurred before August 28, 1996.
- D. **Consecutive Sentences.** Upon completion of the prison term of the first sentence, the conditional release term shall be deferred until the offender completes the prison term of the consecutive sentence(s). The conditional release terms added together shall constitute the time to be served on conditional release.

30. Conditional Release Extension

The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the Board of Probation and Parole. 558.011 RSMo.

- A. **Process.** The Director of any division of the Department of Corrections except the Board of Probation and Parole may file with the Board a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. An extension petition may also be filed if an offender fails to successfully complete the Missouri Sexual Offender Program (MOSOP).
- B. **Scheduling of the Hearing.** Within ten working days of receipt of the petition to extend the conditional release date, the Board of Probation and Parole shall convene a hearing. If the violation occurs in the close proximity to the individual's conditional release date, the conditional release may be held for a maximum of fifteen (15) working days to permit necessary time for the process outlined in this rule to be carried out, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date.
- C. **Witness.** Offenders may call witnesses and cross-examine witnesses appearing against them. The witnesses must have relevant information concerning the violations and they are not to be character witnesses. If the conduct violation is prosecuted in a Court of law, conditional release extension may still occur on the present sentence.
- D. **Decision.** The Board will reach a decision and the offender will receive a notice of the Board's action as soon as the notice can be prepared and delivered. The date of the conditional release may be extended by the Board up to the maximum of the entire sentence. The decision of the Board shall be final. If at the end of a fifteen (15) working day period a Board decision has not been reached, the offender shall be released conditionally.
- E. **Reconsideration.** The offender may, however, after one (1) year of no conduct violations, petition the Board in writing for reconsideration of the Board's decision. If denied, the offender may reapply following another year of clear conduct. The Board shall, without a personal hearing, review the case and forward the decision to the offender in writing.
- F. **Consecutive/Deferred Sentences.** Extensions may occur on consecutive and deferred sentences.

31. Consecutive Sentences

At the time of the parole hearing or subsequent reconsideration hearing, the Parole Board may grant a parole. The parole will apply to the sentence the offender is currently serving and consecutive paroles will be granted to apply to the consecutive sentences.

- A. **Conditional Release.** Offenders convicted of crimes, which occurred on or after January 1, 1979, come under the provisions of the New Criminal Code. Under the code the sentence consists of a prison term and a conditional release term. If the offender is not released on the first sentence, upon completion of the prison term for that sentence the conditional release term for the same is deferred until released. If the offender is paroled during the prison term of a consecutive sentence the deferred conditional release term(s) shall first be served under release supervision. The sentence(s) for which parole was granted shall be served under supervision consecutive to the conditional release term(s).
- B. **Statutory Minimum Requirements.** Offenders serving consecutive sentences with statutory minimum requirements, other than Armed Criminal Action or Pharmacy Robbery First or Second Degree, are not eligible for release until after they have served the mandatory portion of the specific sentence to which the minimum requirement applies.

- C. **Initial Parole Hearing** Offenders who have consecutive sentences will be given a hearing based on the hearing schedule for each sentence. The months for each sentence will then be added together to set the hearing date. For consecutive sentences of one (1) year, one (1) month will be used in this calculation. The initial parole hearing will not exceed 156 months unless statutes require specific incarceration terms on any or all of the consecutive sentences.
- D. **Non-Paroleable Offenses** Offenders who receive sentences consecutive to a paroleable life sentence when the consecutive sentences are for crimes occurring on or after August 28, 1994, may not be eligible for parole. Parole eligibility will be determined on a case by case basis.
- E. **Conditional Release Deferred** Upon completion of the prison term of the first sentence, the conditional release term shall be deferred until the offender completes the prison term of the consecutive sentence(s). The conditional release terms added together shall constitute the time to be served on conditional release.

32. **Escape**

If an offender escapes, the time served on the sentence stops at the time of escape and does not begin again until return to the Missouri Department of Corrections. (RSMo 558.031) The Institutional Records Officer will adjust the sentence structure to reflect time on escape status.

- A. **Escape Prior to Parole Hearing.** If an offender **has not** been granted a parole hearing prior to the time of escape, the offender shall keep the scheduled parole hearing date. If that hearing date has passed, the Board shall schedule a parole hearing at any time within one (1) year from the month of return to the Missouri Department of Corrections.
- B. **Escape After Parole Hearing.** If an offender **has had** a parole hearing and escapes after the hearing, the Board shall cancel their previous decision. The Board shall then schedule a parole hearing at any time within one (1) year from the month of return to the Missouri Department of Corrections or set a new release date.

33. **Supervision Release Plan**

The Board's Institutional Parole Officer is available to offer assistance in helping the offender develop home and employment plans. The offender should talk with the Institutional Parole Officer to develop a satisfactory release plan. The offender will not be released until the plan has been investigated and approved by the Missouri Board of Probation and Parole.

- A. **Home Plan.** The release plan may be with members of the family, a community corrections program, through a recognized social agency that will agree to accept the offender or other approved plan.
- B. **Employment Plan.** Employment may be offered to the offender by an employer who can document legitimate earnings. Under some circumstances, the Board may approve self-employment with adequate documentation of earnings. The job must provide steady employment and earnings adequate to meet the needs of the offender and support their dependents.
- C. **Exceptions.** In some situations, the Parole Board may waive the requirement of an employment offer. This may include factors such as old age, serious illness, physical incapacity or participation in a training or apprenticeship program to obtain or better develop a job skill. In any of these situations the Board will require assurance that the treatment, care and needs of the offender will be adequately provided.

- D. **Conditions.** A detailed listing and explanation of the parole conditions are available in another booklet entitled "Rules and Regulations Governing the Conditions of Probation, Parole and Conditional Release". A copy of this booklet may be obtained from the Institutional Parole Officer, any Probation and Parole Officer of the Board's field staff or from the Central Office of the Missouri Board of Probation and Parole. A copy of this booklet will be given to each offender prior to release from the institution.

34. Term of Supervision

Any offender released on parole or conditional release from the Missouri Department of Corrections prior to completion of the maximum sentence will be subject to supervision. Time served under supervision counts as time served on the sentence.

A. **Exceptions**

- 1). Offenders who abscond from parole supervision may not be given credit for time served while an absconder. 217.720 RSMo.
- 2). Offenders who violate parole and receive a new sentence to a correctional institution outside the Missouri Department of Corrections may not receive credit on their sentence for the time served under the new conviction. 217.720 RSMo.

- B. **Revocations.** Offenders whose parole or conditional release has been revoked no longer have a conditional release date. They may be considered for re-parole. For a detailed explanation of the revocation process and the applicable statutes involved, see "Rules and Regulations Governing Parole and Conditional Release Violators and Related Procedures".

- C. **Discharges.** An offender whose sentence expiration date will be three and one half years or more after release, will be considered for discharge at the end of three (3) years under supervision.

Discharge from supervision after three (3) years is **not automatic**. The Board will review the offender's file, including community adjustment and all other factors.

35. Appendices

The following Appendices are published separately and are available from parole staff, DOC libraries, and from the DOC web site.

- A Parole Hearing Schedule
- B The Salient Factor Scale
- C Offense Classifications
- D Drug C and D Felony Offenses: Males
- E Drug C and D Felony Offenses: Females
- F Drug A and B Felony Offenses: Males
- G Drug A and B Felony Offenses: Females
- H Non-Violent C and D Felony Offenses: Males
- I Non-Violent C and D Felony Offenses: Females
- J Non-Violent A and B Felony Offenses: Males
- K Non-Violent A and B Felony Offenses: Females
- L DWI C and D Felony Offenses
- M DWI B Felony Offenses
- N Sex and Child Abuse C and D Felony Offenses
- O Sex and Child Abuse A and B Felony Offenses
- P Violent C and D Felony Offenses

Q Violent A and B Felony Offenses

The information in this booklet provides the answers to questions frequently asked by offenders and others interested in the release policies of the Missouri Board of Probation and Parole. In the final analysis each person is considered individually and the release decision is tailored to each person.

Further information concerning any parole or conditional release matter may be obtained from the offender's assigned Parole Officer. Correspondence from offenders is routinely referred to the appropriate institution for response.

The information and policies contained herein have been officially adopted by the Missouri Board of Probation and Parole.